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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,250	03/29/2004	Jeffrey W. Chambers	C364.105.101	2755
25281	7590	07/26/2007		
DICKE, BILLIG & CZAJA FIFTH STREET TOWERS 100 SOUTH FIFTH STREET, SUITE 2250 MINNEAPOLIS, MN 55402			EXAMINER PELLEGRINO, BRIAN E	
			ART UNIT 3738	PAPER NUMBER
			MAIL DATE 07/26/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/812,250

Applicant(s)

CHAMBERS, JEFFREY W.

Examiner

Brian E. Pellegrino

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 14-41 is/are pending in the application.
- 4a) Of the above claim(s) 1-12 and 14-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Claims 1-12, 14-27 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. applicant's election with traverse of Invention II (a method of deploying a stent) in the reply filed on 5/8/07 is acknowledged. The traversal is on the ground(s) that a "viable alternative device" is not possible for use with the delivery device. This is not found persuasive because Applicant provides no structure to define the stent. A stent can be no different than a graft or tracheal tube. However, there are stents that are different, but have different materials and structural design to impart the difference. The Examiner is entitled to the broadest interpretation that a different device similar to a stent can be used with the delivery system and thus would be a different procedure using it. The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 28-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lenker et al. (5683451) in view of Lam (5607444). Lenker et al. disclose a method of delivering a stent in a vessel using a catheter, col. 2, lines 61-65. Lenker also discloses (Fig. 3) the catheter **30** includes a plurality of rods **42** for stent positioning. Lenker discloses aneurysms occurring in an artery near the aortic wall are treated by the stent device, col. 1, lines 24-26, 30-33, col. 2, lines 58-60. Lenker additionally discloses

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visualization is used to deliver the stent device and can use radiopaque markers, col. 4, lines 37-45, col.7, lines 26,27, col. 8, lines 33-40. Lenker shows (Figs. 27-29) delivery using an over a guidewire **44** approach. It can be seen the rods are parallel in a collapsed state (Figs. 5,12) and extend away in the expanded state (Figs. 3,9). Lenker discloses the deployment site locator is made of flexible material to impart spring action, col. 8, lines 25-27. Lenker additionally discloses the stent device remains in place as the deployment locator is removed, col. 8, lines 2-7. However, Lenker et al. fail to disclose the device is delivered at an ostium. Lam teaches delivery of a stent adjacent an ostium **30** as shown in Fig. 9. Lam teaches the ostial part of a vessel can require repair and support placed in the area enables the surgeon to access the area of the bifurcation since it is not occluded by the stent, col. 2, lines 1-7. It would have been obvious to one of ordinary skill in the art to place the stent at an ostium as taught by Lam in the method of deploying a stent disclosed by Lenker et al. such that the surgeon can treat a diseased bifurcated area.

Response to Arguments

Applicant's arguments with respect to claims 28-40 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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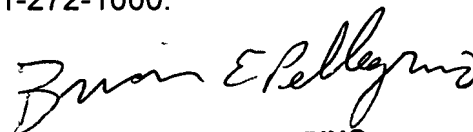
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian E. Pellegrino whose telephone number is 571-272-4756. The examiner can normally be reached on M-F (8:30-5pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TC 3700, AU 3738



BRIAN E. PELLEGRINO
PRIMARY EXAMINER